

**EXPEDITED PROCEDURE – EXAMINING GROUP 1751**

**S/N 10/676,487**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Frank S. Rossi et al.	Examiner:	Gregory E Webb
Serial No.:	10/676,487	Group Art Unit:	1751
Filed:	October 1, 2003	Docket No.:	1153.012US2
Title:	REMOVABLE MARKING SYSTEM		

---

**AMENDMENT & RESPONSE UNDER 37 C.F.R. 1.116**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In response to the Final Office Action mailed January 9, 2007, please amend the application as follows:

**IN THE CLAIMS**

Please amend the claims as follows.

1. (Previously Presented) A removable paint formulation comprising zinc oxide, water and an adjuvant;

wherein the adjuvant comprises synthetic latex surfactants and organosilicone surfactants;

wherein the removable paint formulation is non-phytotoxic and the paint can be removed without harming or discoloring the surface to which it was applied.

2. (Original) The paint of claim 1, wherein the adjuvant is a spray adjuvant.

3. (Original) The paint of claim 1, wherein the adjuvant is a non-ionic spreader/sticker.

4. (Canceled).

5. (Previously Presented) A removable paint formulation comprising zinc oxide, water and an adjuvant the adjuvant comprising alkanolamine surfactants, alkylaryl polyethanol sulfates, and 1,2-propanediol; wherein the adjuvant is a non-ionic spreader/sticker.

6. (Original) The paint of claim 1, wherein the zinc oxide is present in a range of 10% to 30%.

7. (Original) The paint of claim 1, wherein the zinc oxide is present at a concentration of about 20%.

8. (Canceled).

9. (Original) The paint of claim 1, further comprising a colored pigment.
10. (Original) The paint of claim 1, further comprising a propellant.
11. (Original) The paint of claim 10, wherein the propellant is condensed air or CO<sub>2</sub>.
12. (Original) The paint of claim 10, wherein the propellant does not adversely react with the film-forming properties of the paint when sprayed onto a surface.
13. (Original) The paint of claim 1, wherein the paint lacks an organic solvent.
14. (Original) The paint of claim 1, wherein the paint is rainfast.
15. (Canceled).
16. (Original) The paint of claim 1, wherein the paint can be deposited temporarily on a plant or non-living surface.
17. (Previously Presented) A paint formulation, comprising zinc oxide, water, and an adjuvant, wherein the paint is rainfast and wherein the paint can be removed without harming or discoloring the surface to which it was applied and wherein the adjuvant comprises di-1-p-menthene.
- 18-37. (Canceled)
38. (Previously Presented) The paint of claim 5, wherein the adjuvant is a spray adjuvant.
39. (Previously Presented) The paint of claim 5, wherein the adjuvant is a non-ionic spreader/sticker.

40. (Previously Presented) The paint of claim 5, wherein the zinc oxide is present in a range of 10% to 30%.
41. (Previously Presented) The paint of claim 5, wherein the zinc oxide is present at a concentration of about 20%.
42. (Previously Presented) The paint of claim 5, further comprising a colored pigment.
43. (Previously Presented) The paint of claim 5, further comprising a propellant.
44. (Previously Presented) The paint of claim 43, wherein the propellant is condensed air or CO<sub>2</sub>.
45. (Previously Presented) The paint of claim 43, wherein the propellant does not adversely react with the film-forming properties of the paint when sprayed onto a surface.
46. (Previously Presented) The paint of claim 5, wherein the paint lacks an organic solvent.
47. (Previously Presented) The paint of claim 5, wherein the paint is rainfast.
48. (Previously Presented) The paint of claim 5, wherein the paint can be deposited temporarily on a plant or non-living surface.
49. (Previously Presented) A paint formulation, comprising zinc oxide, water, and an adjuvant, wherein the paint is rainfast and wherein the paint can be removed without harming or discoloring the surface to which it was applied and wherein the adjuvant comprises a polymer of  $\alpha$ -pinene.

### **REMARKS**

This responds to the Office Action mailed on January 9, 2007.

Claims 1-3, 5-7, 9-14, 16-17 and 38-49 are now pending in this application.

#### **Double Patenting Rejection**

Claims 1-3, 5-7, 9-17 and 38-49 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 4 of U.S. Patent No. 6,653,265. Applicant does not admit that claims are obvious in view of U.S. Patent No. 6,653,265. However, a Terminal Disclaimer in compliance with 37 CFR 1.321(b)(iv) is enclosed herewith to obviate these rejections.

#### **Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 612-373-6920 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

FRANK S. ROSSI ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

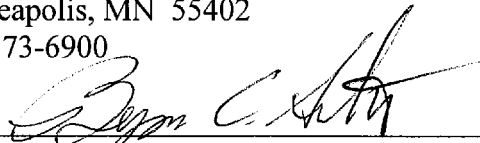
Minneapolis, MN 55402

612-373-6900

Date

2/19/07

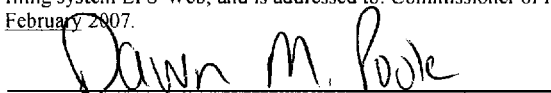
By



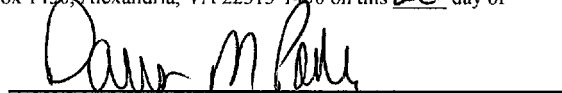
Benjamin C. Armitage

Reg. No. 57,213

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 20<sup>th</sup> day of February 2007.



Name



Signature